

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: Methyl Tertiary Butyl Ether ("MTBE")	:	<b>Master File No. 1:00-1898</b>
Products Liability Litigation	:	<b>MDL No. 1358 (SAS)</b>
	:	<b>M21-88</b>
	:	
This Document Relates To:	:	The Honorable Shira A. Scheindlin
<i>Orange County Water District v. Unocal</i>	:	
<i>Corporation, et al.</i> , Case No. 04 Civ. 4968	:	
(SAS).	:	
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**DEFENDANTS' LOCAL RULE 56.1 STATEMENT IN SUPPORT  
OF FURTHER SUPPLEMENTAL REPLY BRIEF ON STATUTE OF  
LIMITATIONS**

PLUME NUMBER AND STATION ADDRESS	UNDISPUTED FACTS SUPPORTING DEFENDANTS' FURTHER SUPPLEMENTAL MEMORANDUM	OCWD'S SUBMISSIONS	DEFENDANTS' UNDISPUTED FACTS IN RESPONSE TO OCWD'S SUBMISSIONS
<b><u>PLUME NO.</u></b> <b><u>1</u></b> <b>NB-TAMD</b>	1. Plume 1 was previously addressed in the 2008 round of supplemental briefing, and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that briefing at ¶¶ 1-12.	<p>1. Defendants' prior response asserts that detections of MTBE below 1 ppb in NB-TAMD are insufficient to constitute a cognizable injury or to require the District to take action. For purposes of statute of limitations, therefore, defendants concede that the District's claims with respect to NB-TAMD and Plume 1 are not time-barred.</p> <p>2. Defendants' prior response also asserts that the District must prove that MTBE released at a Plume 1 station actually contaminated NB-TAMD in order to bring a claim. This argument is irrelevant for purposes of statute of limitations.</p>	
Exxon #7-4283/ Chevron #208554 8980 Warner Avenue, Fountain Valley	2. The MTBE detection in well MW-13i on which OCWD's date is based was at 5.6 ppb. (Further Supplemental Declaration of William Costley ("Costley 2009 Decl.") Ex. 1A.) MTBE has not been detected in any subsequent sampling event at this well. (See	2. Mr. Costley cites MW-8 at the Exxon #7-4283 station associated with Plume 1 as an example of where an "off-site" well showed detections of MTBE prior to May 6, 2000. <i>See</i> Costley Decl., Ex. 1A. These wells, however, do not indicate that MTBE has escaped	2. When deposed as the District's Rule 30(b)(6) representative last year, Mr. Bolin unequivocally defined "off-site contamination" as "[d]etections of MTBE in a well outside the boundaries of the property." (Bolin Dep. 356:2-22; <i>see also id.</i> 1888:25-1890:3; 1933:12-1934:3.) <sup>1</sup> Mr. Bolin also

<sup>1</sup> All citations to the Bolin Deposition and its exhibits are found at Finsten 2009 Reply Decl. ¶ 10, Ex. 9.

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	<p>EXMO_4283_019716; OCWD-MTBE-001-257810.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in offsite monitoring well MW-8 at levels above the Secondary MCL, with a peak concentration of 18 ppb. (Costley 2009 Decl. Ex. 1A.)</p>	<p>remediation at this site. Groundwater contour maps demonstrate that the shallow groundwater flow is principally to the East - Northeast at this station. (Ex. 2.) MW-8 is in close proximity to the station, particularly the remediation system, and is screened very shallow. MW-13i, on the other hand, is located downgradient of the release, is located at a greater distance from the remediation system, and is screened in the deeper zone. MW-13i, therefore, is the furthest downgradient well from the release site and showed an MTBE detection of 5.6 ppb in 2005. The most recent remediation reports for the Exxon #7-4283 do not indicate that further efforts to define the plume or expand the area of remediation are underway or anticipated. In my opinion as a hydrogeologist with extensive experience in remediation, this detection in MW-13i is the first real indication at this site that MTBE has escaped active remediation efforts and is threatening drinking water sources. (Bolin Decl., ¶ 15.)</p>	<p>testified that an MTBE detection in a monitoring well "near the site boundary... indicate[s] there is off-site contamination." (<i>Id.</i> 357:4-16.)</p> <p>Although now asserting that detections in MW-8 "do not indicate that MTBE has escaped remediation at this site," (Bolin 2009 Decl. ¶ 15) Mr. Bolin previously identified "detect[ions] in offsite wells and site margin wells" as the basis for his belief that "MTBE escaped remediation" at the station. (Bolin Dep. 3015:5-17; <i>see also id.</i> 3016:16-3017:1.) He specifically identified a May 3, 1996 detection in MW-7 at 11,000 ppb, noting that MW-7 "is at the north site margin of [Exxon 7-4283]." (<i>Id.</i> 2956:24-2957:8, 2960:10-13.)</p> <p>Mr. Bolin rejects numerous off-property wells relied on by defendants as "too close" to the station or "too shallow." <i>E.g.</i>, Bolin Decl. ¶ 37 (ARCO 3585, 50 feet from station), ¶ 46 (Unocal #5123, 50 feet from station), ¶ 16 (G&amp;M Oil # 4, 65 feet from station), ¶ 24 (Mobil #18-HDR, 65 feet from station), ¶ 31 (Unocal #7470, 65 feet from station), ¶ 29 (Thrifty #008, 100 feet from station), ¶ 31 (Unocal #7470, 160 feet from station). Yet, for the present station, he</p>

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			<p>opines that MTBE detected in MW-13i represents "real hydrogeological evidence that MTBE had escaped" although this well is located approximately 14 feet outside the property. (Finsten 2009 Reply Decl. ¶ 2, Ex. 1.)</p> <p>Mr. Bolin is mistaken in claiming that there are no "further efforts to define the plume or expand the area of remediation ... underway or anticipated." (Bolin Decl. ¶ 15.) Documents produced in the litigation reveal continuing assessment activities by ExxonMobil and the Orange County Health Care Agency with regard to this station. (Finsten 2009 Reply Decl. ¶ 3, Ex. 2.)</p> <p>As the principal basis for his present conclusions, Mr. Bolin purports to offer his "opinion as a hydrogeologist with extensive experience in remediation." During his deposition, Mr. Bolin testified on <u>dozens</u> of occasions that he was "not an expert in remediation," "remedial technologies," or "fate and transport analysis." (<i>E.g.</i>, Bolin Dep. 1310:25-1311:08; 1791:17-22; 1934:22-1935:-3; 2037:11-21; 2892:3-2893:3.) Should the Court wish, Defendants are prepared to present a collection of all of Mr. Bolin's admissions to this effect.</p>

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<p>Arco #1887 16742 Beach Blvd. Huntington Beach</p>	<p>3. The MTBE detection in well NB-TAMD on which OCWD's date is based was at 0.12 ppb. (Costley 2009 Decl. Ex. 1B.) However, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least three off-site monitoring wells at levels greater than the California Secondary MCL: BC-1, MW-15, and MW-17 (Costley 2009 Decl. Ex. 1B), as follows:</p> <p>MTBE was detected in BC-1 on December 28, 1999, at 6.3 ppb. (AROCWD188705320.) MTBE was detected in MW-15 on December 28, 1999 at 9.2 ppb, and on March 14, 2000 at 13 ppb. (AROCWD188705312.) MTBE was detected in MW-17 on December 3, 1998 at 48 ppb and March 9, 1999 at 14 ppb. (AROCWD188705313; <i>see also</i> OCWD-MTBE-001-261031.) During the Focus Plume depositions, the District's designated</p>	<p>3. Mr. Costley cites MW-15, MW-17 and BC-1 at the Arco # 1887 station associated with Plume 1 as examples of where "off-site" wells showed detections of MTBE prior to May 6, 2000, at a site where the District concluded there were no off-site wells, and therefore detections of MTBE in the nearest production well provided the date on which the District's cause of action accrued for releases from the station. <i>See</i> Costley Decl., Ex. 1B. The monitoring wells cited by Mr. Costley are associated with core remedial activities at this station and therefore are not off site from the remediation. Groundwater contour maps demonstrate that the shallow groundwater flow is principally to the South - Southeast at this station. (Bolin Decl, Ex. 1.) MW-15 and MW-17 are in very close proximity to the station and on an property adjacent to the station. BC-1 is located in the street in front of the station and is not down-gradient from the release. In my opinion as a hydrogeologist with extensive experience in remediation, the location of these wells (their proximity and gradient</p>	<p>3. When deposed as the District's Rule 30(b)(6) representative last year, Mr. Bolin unequivocally defined "off-site contamination" as "[d]etections of MTBE in a well outside the boundaries of the property." (Bolin Dep. 356:2-22; <i>see also id.</i> 1888:25-1890:3; 1933:12-1934:3.) Mr. Bolin also testified that an MTBE detection in a monitoring well "near the site boundary ... indicate[s] there is off-site contamination." (<i>Id.</i> 357:4-16.)</p> <p>To justify the District's reliance on purported MTBE detections in a production well to establish its accrual date, Mr. Bolin's declaration asserts that "the District concluded there were no off-site wells" at ARCO #1887. (Bolin 2009 Decl. ¶ 14.) However, in deposition testimony, Mr. Bolin identified as "off-site wells" each of BC-1, MW-17 and MW-15, the three monitoring wells cited by defendants as establishing a pre-May 6, 2000 accrual date for this station. (Bolin Dep., 3058:5-3059:5.) In this testimony, he cited the MTBE detections in these wells, as well as MTBE detections in two "site margin wells: MW-3 ... and MW-4" as evidence that contamination "has escaped remediation." (<i>Id.</i>) In his notes prepared for the</p>

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	<p>witness David Bolin cited MTBE detections in these wells as purportedly showing that MTBE had "escaped remediation." (Bolin Dep. 3058:5-3059:5; 3071:21-3073:15.)</p>	<p>direction) indicates that they are associated with the core remedial activities at this station. The most recent remediation reports for the Arco # 1887 site do not indicate that further efforts to define the plume or expand the area of remediation are underway or anticipated. Therefore, the first real hydrogeologic evidence that MTBE has escaped was the MTBE detection in the production well associated with Plume 1. (Bolin Decl., ¶ 14.)</p> <p>Defendants cite to several of my responses to questions during depositions to critique the monitoring wells that I selected for purposes of determining an accrual date. Remedial systems are developed over time, and monitoring wells can convey different information at different times. In responding to defendants' deposition questions I was merely observing that particular monitoring wells referenced by defendants indicated that MTBE had gone beyond the then existing remedial systems between the monitoring well and the release point. I was not addressing in my deposition statements the issue of whether there was hydrogeologic evidence of</p>	<p>deposition, Mr. Bolin identified monitoring well MW-17 as the "farthest downgradient" "off-site well" at the station. (Bolin Dep., 3041:24-3042:17, Ex. 196.)</p> <p>Mr. Bolin is mistaken in claiming that there are no "further efforts to define the plume or expand the area of remediation ... underway or anticipated." (Bolin Decl. ¶ 14.) BP's investigative and remedial activities are subject to the oversight and directives of the Regional Water Quality Control Board and other local agencies. At each stage in the remediation process, and whenever new information becomes available, BP, its consultants, and the regulators, evaluate what additional or different actions, if any may be required. (Fah Decl. ¶¶ 3-4.) At this station, BP and its consultant recently proposed a Revised Conceptual Model and Corrective Action Plan, suggesting a new remedial technology -- in-situ chemical oxidation (ISCO). (<i>Id.</i> ¶ 5, Ex. 1 (excerpted).) This new technology was proposed following analysis of seven "progress borings" drilled at the site in January 2009. (<i>Id.</i> ¶ 5)</p> <p>Although Mr. Bolin purports to offer his "opinion as a hydrogeologist with extensive experience in</p>

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		the type addressed in the accrual chart, which was used to determine both when MTBE could be said to be beyond the scope of any remediation system associated with the site and a current threat to drinking water. (Bolin Decl., ¶ 56.)	remediation," he testified during his deposition that he is "not an expert in remediation," "remedial technologies," or "fate and transport analysis." (See discussion in ¶ 2 above.)
G&M Oil #4 16990 Beach Blvd. Huntington Beach	<p>4. The MTBE detection in well W-25d on which OCWD's date is based was at 5.1 ppb. (Costley 2009 Decl. Ex. 1A.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least eight off-site monitoring wells at levels greater than the California Secondary MCL: W-11, W-16, W-17, W-18, W-19, W-20, W-21, and W-22, as follows.</p> <p>MTBE was detected in W-11 on March 15, 1998 at 2,950 ppb, the only time this well is reported to have been tested for MTBE before May 6, 2000. (OCWD-MTBE-001-255850.) MTBE was detected in W-16 on March 2, 1997 at 200 ppb, and in all eleven subsequent testing event through May 6, 2000. (OCWD-MTBE-001-255869-70.) MTBE was detected in W-17 on September 17, 1997 at 4,360 ppb, and in all nine</p>	<p>4. Mr. Costley cites W-11, W-16, W-17, W-18, W-19, W-20, W-21, W-22 at the G&amp;M Oil #4 station associated with Plume 1 as examples of where "off-site" wells showed detections of MTBE prior to May 6, 2000. <i>See</i> Costley Decl., Ex. 1A. These wells, however, do not indicate that MTBE has escaped remediation at this site. Groundwater contour maps demonstrate that the shallow groundwater flow is principally to the West at this station. (Bolin Decl., Ex. 3.) W-16 and W-20 are not downgradient from the release site, and W-11 is located fairly close to the station at only 65 feet to the West. W-18, W-19, W-21, and W-22 are located in increasing downgradient distances from the release, indicating ongoing efforts to characterize the plume as part of remediation. In fact, W-11, W-17, W-19 and W-21 have been used by G&amp;M Oil's consultant</p>	<p>4. When deposed as the District's Rule 30(b)(6) representative last year, Mr. Bolin unequivocally defined "off-site contamination" as "[d]etections of MTBE in a well outside the boundaries of the property." (Bolin Dep. 356:2-22; <i>see also id.</i> 1888:25-1890:3; 1933:12-1934:3.) Mr. Bolin also testified that an MTBE detection in a monitoring well "near the site boundary... indicate[s] there is off-site contamination." (<i>Id.</i> 357:4-16.)</p> <p>Mr. Bolin now asserts that detections in wells W-11 (which he notes is "65 feet" from the station), W-16, W-17, W-18, W-19, W-20, W-21, and W-22 "do not indicate that MTBE has escaped remediation at this site," (Bolin 2009 Decl. ¶ 16.)</p> <p>Although Mr. Bolin purports to offer his "opinion as a hydrogeologist with extensive experience in remediation," he testified during his deposition that he</p>

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	<p>subsequent testing event through May 6, 2000. (OCWD-MTBE-001-255872-73.) MTBE was detected in W-18 on September 21, 1997 at 48 ppb, and in eight of the nine subsequent quarterly monitoring events through May 6, 2000. (OCWD-MTBE-001-255875-76.) MTBE was detected in W-19 on March 15, 1998 at 54 ppb, and in every subsequent quarterly monitoring event in which the well was tested for MTBE through May 6, 2000. (OCWD-MTBE-001-255878.) MTBE was detected in W-20 on September 21, 1997 at 5.9 ppb, and was detected in four subsequent sampling events through May 6, 2000. (OCWD-MTBE-001-255880-81.) MTBE was detected in W-21 on September 21, 1997 at 102 ppb, and was detected in seven subsequent sampling events through May 6, 2000, peaking at 2,080 ppb on May 17, 1998. (OCWD-MTBE-001-255883-84.)</p>	<p>to remediate contamination at this site. By contrast, W-25d is located 950 feet downgradient from the release site and is the furthest downgradient well. The most recent remediation reports for the G&amp;M Oil #4 do not indicate that further efforts to define the plume or expand the area of remediation are underway or anticipated. In my opinion as a hydrogeologist with extensive experience in remediation, this detection in W-25d is the first real indication at this site that MTBE has escaped active remediation efforts and is threatening drinking water sources. (Bolin Decl., ¶ 16.)</p>	<p>is "not an expert in remediation," "remedial technologies," or "fate and transport analysis." (See discussion in ¶ 2 above.)</p>
<p>Texaco #8520/12160 8 8520 Warner Ave. Fountain Valley</p>	<p>5. The MTBE detection in well NB-TAMD on which OCWD's date is based was at 0.12 ppb. (Costley 2009 Decl. Ex. 1B.) However, under the District's accrual criteria, accrual may rest on an</p>	<p>5. Mr. Costley cites MW-9 and MW-10 at the Texaco # 8520/121608 station associated with Plume 1 as examples of where "off-site" wells showed detections of MTBE prior to May 6, 2000, at a site</p>	<p>5. Although Mr. Bolin purports to offer his "opinion as a hydrogeologist with extensive experience in remediation," he testified during his deposition that he is "not an expert in remediation," "remedial</p>



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	<p>MTBE detection in a water production well <i>only</i> “[f]or stations where no off-site monitoring wells were installed.” (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least two off-site monitoring wells at levels greater than the California Secondary MCL: MW-9 and MW-10, as follows:</p> <p>MTBE was detected in MW-9 at 7.3 ppb on August 5, 1998, and at continuously higher concentrations up to 660 ppb through May 6, 2000. (OCWD-MTBE-001-254959.) MTBE was detected in MW-10 at a level of 2,610 ppb on March 20, 1998, and at all subsequent testing events through May 6, 2000. (<i>Id.</i>)</p>	<p>where the District concluded there were no off-site wells, and therefore detections of MTBE in the nearest production well provided the date on which the District’s cause of action accrued for releases from the station. <i>See</i> Costley Decl., Ex. 1B. MW-9 and MW-10, however, do not indicate that MTBE has escaped remediation at this site. Groundwater contour maps demonstrate that the shallow groundwater flow is principally to the South at this station. (Bolin Decl., Ex. 4.) MW-9 and MW-10 are located in close proximity to the release at the station. In my opinion as a hydrogeologist with extensive experience in remediation, these wells are associated with the core remedial activities at this station. The most recent remediation reports for the Texaco #8520/121608 site do not indicate that further efforts to define the plume or expand the area of remediation are underway or anticipated. The first real hydrogeologic evidence that MTBE had escaped remediation at this site, therefore, was when MTBE was detected in a production well. (Bolin Decl., ¶ 20.)</p>	<p>technologies,” or “fate and transport analysis.” (See discussion in ¶ 2 above.)</p>

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Mobil #18-G6B 9024 Warner Ave. Fountain Valley	<p>6. The MTBE detection in well MW-6S on which OCWD's date is based was at 14.4 ppb. (Costley 2009 Decl. Ex. 1D.) MTBE was non-detect at this well for the next two quarters, and was non-detect or detected below the Secondary MCL in nine of the twelve sampling events in the three years following the April 2, 2003 detection. (EXMO_18G6B_013434-35; OCHCA-MTBE-081101.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least November 7, 1999, at 34,000 ppb. (<i>See</i> Finsten 2008 Supp. Decl., Ex. 13.)</p>	<p>6. Mr. Costley's accrual date is based solely on detections of MTBE in monitoring wells that are "on site" under even Mr. Costley's definition of that term. <i>See</i> Costley Decl., Ex. 1D. Levels of contamination reflected in the monitoring well data cited by Mr. Costley are consistent with core remedial activities at almost any site and do not by themselves indicate that MTBE has escaped remedial efforts. The most recent remediation reports for the Mobil #18-G6B site do not indicate that further efforts to define the plume or expand the area of remediation are underway or anticipated. In my opinion, the first real hydrogeologic evidence that MTBE had escaped remediation at this site was when MTBE was detected in downgradient monitoring well MW-6S. (Bolin Decl., ¶ 17.)</p>	<p>6. When deposed as the District's Rule 30(b)(6) representative last year, Mr. Bolin unequivocally defined "off-site contamination" as "[d]etections of MTBE in a well outside the boundaries of the property." (Bolin Dep. 356:2-22; <i>see also id.</i> 1888:25-1890:3; 1933:12-1934:3.) Mr. Bolin also testified that an MTBE detection in a monitoring well "near the site boundary ... indicate[s] there is off-site contamination." (<i>Id.</i> 357:4-16.)</p> <p>Mr. Bolin rejects numerous off-property wells relied on by defendants as "too close" to the station or "too shallow." <i>E.g.</i>, Bolin Decl. ¶ 37 (ARCO 3585, 50 feet from station), ¶ 46 (Unocal #5123, 50 feet from station), ¶ 16 (G&amp;M Oil # 4, 65 feet from station), ¶ 24 (Mobil #18-HDR, 65 feet from station), ¶ 31 (Unocal #7470, 65 feet from station), ¶ 29 (Thrifty #008, 100 feet from station), ¶ 31 (Unocal #7470, 160 feet from station). Yet, for the present station, he opines that MTBE detected in MW-6S represents "real hydrogeological evidence that MTBE had escaped" although this well is located only 1-2 feet outside the property and is only 5-25 feet deep. (Finsten 2009 Reply Decl. Ex. 1.)</p>

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			<p>Mr. Bolin is mistaken in claiming that there are no "further efforts to define the plume or expand the area of remediation ... underway or anticipated." (Bolin Decl. ¶ 17.) Documents produced in the litigation reveal continuing assessment activities by ExxonMobil and the Orange County Health Care Agency with regard to this station. Finsten 2009 Reply Decl. ¶ 4, Ex. 3.)</p> <p>Although Mr. Bolin purports to offer his "opinion as a hydrogeologist with extensive experience in remediation," he testified during his deposition that he is "not an expert in remediation," "remedial technologies," or "fate and transport analysis." (See discussion in ¶ 2 above.)</p>
Unocal #5376 8971 Warner Ave. Huntington Beach	<p>7. The MTBE detection in well NB-TAMD on which OCWD's date is based was at 0.12 ppb. (Costley 2009 Decl. Ex. 1B.) However, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)</p> <p>Prior to May 6, 2000,</p>	<p>7. Mr. Costley cites MW-9, MW-10, MW-13, MW-14, and MW-15 at the Unocal #5376 station associated with Plume 1 as examples of where "off-site" wells showed detections of MTBE prior to May 6, 2000, at a site where the District concluded there were no off-site wells, and therefore detections of MTBE in the nearest production well provided the date on which the District's cause of action accrued for releases from</p>	<p>7. When deposed as the District's Rule 30(b)(6) representative last year, Mr. Bolin unequivocally defined "off-site contamination" as "[d]etections of MTBE in a well outside the boundaries of the property." (Bolin Dep. 356:2-22; <i>see also id.</i> 1888:25-1890:3; 1933:12-1934:3.) Mr. Bolin also testified that an MTBE detection in a monitoring well "near the site boundary ... indicate[s] there is off-site contamination." (<i>Id.</i> 357:4-16.)</p>

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	<p>MTBE was detected at this station in at least 5 offsite monitoring wells: MW-9, MW-10, MW-13, MW-14, and MW-15, as follows:</p> <p>MTBE was first detected in well MW-9 at 89 ppb on December 27, 1996, and in another subsequent testing event before May 6, 2000, with a high detection of 89 ppb. (OCWD-MTBE-001-260076.) MTBE was first detected in well MW-10 at 63 ppb on August 31, 1998, and in two subsequent sampling events prior to May 6, 2000, with a high detection of 63 ppb. (OCWD-MTBE-001-260077.) MTBE was first detected in well MW-13 at 26 ppb on December 15, 1997, at 180 ppb on February 8, 1999, and in three of the four subsequent sampling events prior to May 6, 2000, with a high detection of 220 ppb. (OCWD-MTBE-001-260080.) MTBE was first detected in well MW-14 at 51 ppb on July 1, 1996, at 81 ppb on October 1, 1997, at 990 ppb on December 11, 1998, and in four of the subsequent five sampling events before May 6, 2000, with a high detection of 990</p>	<p>the station. <i>See</i> Costley Decl., Ex. 1B. These wells, however, do not indicate that MTBE has escaped remediation at this site. Groundwater contour maps demonstrate that the shallow groundwater flow is principally to the Southeast at this station. (Bolin Decl., Ex. 5.) MW-9, MW-10, MW-13A, and MW-14 are located in fairly close proximity to the station. MW-15 is located further from the Unocal #5376 station, but is almost adjacent to the Exxon #7-4283. In my opinion as a hydrogeologist with extensive experience in remediation, MW-9, MW-10, MW-13A, and MW-14 are associated with the core remedial activities at this station. MTBE detected in MW-15 is more likely associated with a release at Exxon #7-4283. The most recent remediation reports for the Unocal #5376 site do not indicate that further efforts to define the plume or expand the area of remediation are underway or anticipated. Therefore, the first real hydrogeologic evidence that MTBE had escaped remediation at Unocal #5376 was when MTBE was detected in the production well designated for Plume 1. (Bolin Decl.,</p>	<p>To justify the District's reliance on purported MTBE detections in a production well to establish its accrual date, Mr. Bolin's declaration asserts that "the District concluded there were no off-site wells" at Unocal #5376. (Bolin 2009 Decl. ¶ 21.) However, in deposition testimony, Mr. Bolin claimed that "contamination has escaped remediation [and] has escaped the site" because "there has been [MTBE] contamination detected in virtually all of the downgradient offsite wells, and there's been no remediation offsite from this station location." (Bolin Dep. 2794:22-2796:5.)</p> <p>Mr. Bolin is mistaken in claiming that there are no "further efforts to define the plume or expand the area of remediation ... underway or anticipated." (Bolin Decl. ¶ 21.) Consultants and/or regulators may determine that additional monitoring wells or different remediation is necessary, often many years after the last monitoring well was drilled. Where new information developed from one or more wells at the site indicates that an adjustment to the remediation measures should be made, appropriate action can be taken. (Molla Decl. ¶¶ 3-5, Ex.1.)</p> <p>Although Mr. Bolin purports</p>